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**Hearing Statement of Senator Max Baucus (D-Mont.)**  
**Regarding the Tax Treatment of Financial Products**  
*As prepared for delivery*

Warren Buffet once wrote to his shareholders, “No financial instrument is evil per se; it’s just that some variations have far more potential for mischief than others.”

This potential for mischief is one of the reasons we are holding this joint hearing today.

Many financial instruments serve essential business purposes. They allow individuals and companies to hedge against risks and minimize exposure to losses, especially in this turbulent economic time.

For example, Darin Arganbright, a small grain farmer in my home state of Montana, uses futures contracts to reduce the impact of the market’s ups and downs. These contracts help him lock in prices for his crops in advance. But too many resources are spent developing new and complex financial instruments simply to avoid taxes.

Over the past decade, the use of one type of financial product, derivatives, has grown considerably. The notional – or theoretical – value of derivatives held by U.S. commercial banks has grown more than six times in the past decade. It now totals \$230 trillion. Globally, the notional value of over-the-counter derivatives is estimated to total more than \$700 trillion. That equals more than three times the value of all global financial assets.

This growth can make it harder to determine the value of a business holding these financial instruments. Some believe this lack of transparency is one of the problems that gave rise to the financial crisis.

Financial advisors have created a complex web of new products that mix debt, equity and derivatives. The only purpose of some of these new products is to avoid taxes.

Those who benefit from these new financial products are often large companies and high net-worth individuals who can afford to hire expensive lawyers and advisors to structure their investments and lower their tax liabilities.

These complicated transactions to avoid taxes result in wasted investment, and they aren’t fair to taxpayers who can’t afford those high-priced lawyers and accountants.

So let us clarify and simplify the tax treatment of these financial products, let us ensure they are taxed rationally and fairly, let us work to make the tax code reflect the goals of transparency, consistency, and the protection of the American taxpayer, and as Mr. Buffet alluded to, let us limit the potential for mischief.

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